

[Docket No. 99]

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____	:	
CLIFFORD J. LEVINE,	:	
	:	
Plaintiff,	:	Civil No. 07-1614 (RMB)
	:	
v.	:	
	:	
VOORHEES BOARD OF EDUCATION,	:	OPINION AND ORDER
et al.,	:	
Defendants.	:	
_____	:	

APPEARANCES:

William B. Hildebrand, Esquire
Law Offices of William B. Hildebrand, LLC
1040 Kings Highway North, Suite 601
Cherry Hill, New Jersey 08034
(856) 482-7100
Attorney for Plaintiff

William S. Donio, Esquire
Cooper Levenson April Niedelman & Wagenheim, P.A.
1125 Atlantic Avenue, Third Floor
Atlantic City, New Jersey 08401-4891
(609) 344-3161
Attorney for Defendants

BUMB, United States District Judge

This matter comes before the Court upon the Plaintiff's renewed motion (styled as a motion for summary judgment) [Docket No. 99] to strike the defendants' affirmative answers for lack of evidence. The Court denied the Plaintiff's earlier motion on the grounds that discovery had not yet been completed. [Docket No. 38]. Inexplicably, Plaintiff has pressed his renewed motion even

though discovery has not yet been completed. [See Docket No. 109].

Accordingly, because discovery has not yet concluded, the Plaintiff's motion is denied. Additionally, the Court notes that Plaintiff has indicated that he seeks an order dismissing the affirmative defenses "so that the parties can concentrate on the more substantive (sic) issues in this case." Pltf's Mtn., at 1. Yet, there is no evidence that the pleading of the affirmative defenses in this case has caused unnecessary delay. The Court holds, however, that upon completion of discovery, the parties shall confer with each other for the purpose of determining whether an agreement can be reached as to the applicability of any affirmative defenses. This approach appears to be the most productive. No further motion to strike affirmative defenses shall be filed unless a party certifies that the foregoing conference has occurred and the parties could not reach an agreement.

Date: January 22, 2009

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge